

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA	)	
	)	No. 08 C 1966
vs.	)	Judge John F. Grady
	)	
MICHAEL SPANO, SR.	)	

**GOVERNMENT'S SUPPLEMENTAL RESPONSE TO DEFENDANT MICHAEL  
SPANO, SR.'S MOTION TO VACATE THE JUDGMENT AND SENTENCE  
PURSUANT TO 28 U.S.C. § 2255**

The UNITED STATES OF AMERICA, by PATRICK J. FITZGERALD, United States Attorney for the Northern District of Illinois, submits the following supplemental response to defendant Michael Spano, Sr.'s motion under Title 28, United States Code, Section 2255 to vacate or set aside the judgment and sentence in his case.

1. Spano Sr. has advanced an argument that the indictment in his case was invalid because it was returned by the Special July 2000-1 Grand Jury after its term of service had expired. In response, the government argued that, on December 21, 2001, Chief Judge Marvin E. Aspen entered an order extending the term of this grand jury to February 24, 2002. The superseding indictment in Spano, Sr.'s case was returned on February 22, 2002. In reply, Spano, Sr. argued that Judge Aspen's order extended the term of Special July 2000-2 grand jury, not the Special July 2000-1 Grand Jury. While the government concedes that there is a reference to the Special July 2000-2 grand jury in Judge Aspen's order extending the Special July 2000-1 grand jury, it is clear that this reference is merely a typographical or clerical error for several reasons. See Exhibit A-1.

2. First, the order in question is captioned “In Re: Special July 2000-1 Grand Jury” and the single reference to the Special July 2000-2 Grand Jury is in the body of the order. Hence, this order was clearly intended to extend the term of service of the grand jury that returned the superseding indictment against defendant Spano, Sr. Next, Judge Aspen entered an order extending the Special July 2000-2 Grand Jury to May 21, 2002 on the very same day that he authorized the extension of the Special July 2000-1 Grand Jury. See Exhibit A-2. In addition, the format of the two extension orders is virtually identical. For example, the reference to the Special July 2000-2 Grand Jury appears in the exact same place in both orders. Accordingly, it is evident that a clerical error occurred in this instance where petitions and orders to extend two separate grand juries were prepared and signed at the same time. Thus, the record shows that Spano, Sr. is mistaken in his belief that the order in question extended the Special July 2000-2 Grand Jury.

For the foregoing reasons, the United States respectfully requests that this Court reject Defendant Spano, Sr.'s argument that the superseding indictment in this case is void and should be dismissed for the reason that the Special July 2000-1 Grand Jury acted beyond its authorized term in returning the superseding indictment.

Respectfully submitted,

**PATRICK J. FITZGERALD**  
United States Attorney

By: s/ Matthew M. Schneider  
**Matthew M. Schneider**  
Assistant United States Attorney  
219 South Dearborn Street  
Chicago, Illinois 60604  
(312) 886-0973

**CERTIFICATE OF SERVICE**

The undersigned Assistant United States Attorney hereby certifies that in accordance with Fed. R. Crim. P. 49, Fed. R. Civ. P. 5, LR5.5, and the General Order on Electronic Case Filing (ECF), the following document:

**GOVERNMENT'S SUPPLEMENTAL RESPONSE TO DEFENDANT  
MICHAEL SPANO, SR.'S MOTION TO VACATE THE JUDGMENT  
AND SENTENCE  
PURSUANT TO 28 U.S.C. § 2255**

were served pursuant to the district court's ECF system as to ECF filers, if any, and were sent by first-class mail on August 1, 2008, to the following non-ECF filers:

Michael Spano, Sr.  
# 13385-424  
FCI  
P.O.Box 1000  
Milan, MI 48160

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Assistant United States Attorney  
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(312) 886-0973

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

IN RE: SPECIAL JULY 2000-1 )  
GRAND JURY ) Honorable Marvin E. Aspen  
 ) Chief Judge

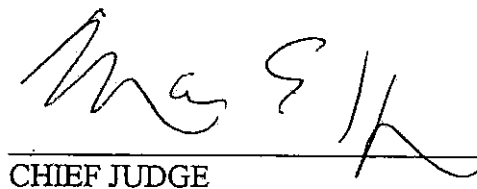
ORDER

Upon petition of the United States Attorney Grand Jury, this Court finds as follows:

1. The business of the grand jury has not been completed.
2. Extension of the grand jury is proper under Title 18, United States Code, Section 3331(a).
3. Extension of the grand jury is in the public interest.

WHEREFORE, it is hereby ordered that the term of the Special July 2000-2 Grand Jury is extended until and including February 24, 2002, pursuant to Title 18, United States Code, Section 3331(a).

ENTERED:

  
CHIEF JUDGE

Entered this 25 day of  
December, 2001

**Exhibit A-1**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

IN RE: SPECIAL JULY 2000-2 )  
GRAND JURY ) Honorable Marvin E. Aspen  
 ) Chief Judge

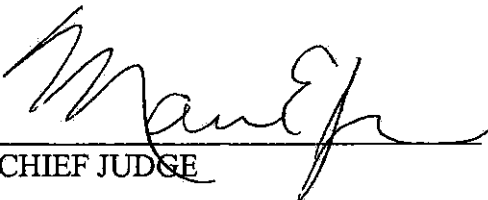
ORDER

Upon petition of the United States Attorney and Certification by the Special July 2000-2 Grand Jury, this Court finds as follows:

1. The business of the grand jury has not been completed.
2. Extension of the grand jury is proper under Title 18, United States Code, Section 3331(a).
3. Extension of the grand jury is in the public interest.

WHEREFORE, it is hereby ordered that the term of the Special July 2000-2 Grand Jury is extended until and including May 21, 2002, pursuant to Title 18, United States Code, Section 3331(a).

ENTERED:

  
CHIEF JUDGE

Entered this 21 day of

December, 2001

**Exhibit A-2**